IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

Crl.MC.No. 5030 of 2003(c)

CRRP.31/1998 of ADDL. SESSIONS COURT (ADHOC)-II, PALAKKAD
MC.56/1997 of JUDL.MAGISTRATE OF FIRST CLASS COURT, ADOOR

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PETITIONER: REVISION PETITIONER/COUNTER PETITIONER

SUKUMARAKURUP, S/O.KOCHUNNITHAN,
SANTHA BHAVANAM, THENGAMOM MURI,
APALLICKAL VILLAGE.

BY ADV. SRI.M.P.ASHOK KUMAR

RESPONDENTS: RESPONDENTS/PETITIONERS

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1. STATE OF KERALA REP.BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

2. VARADA DEVI, D/O. SREEDEVI KUNJAMMA, KYLAS VEEDU, THENGAMOM MURI, PALLICKAL VILLAGE.

3. HARIKRISHNAN, S/O. VARADA DEVI, KYLAS VEEDU, THENGAMOM MURI, PALLICKAL VILLAGE.

4. JAYAKRISHNAN, S/O. VARADA DEVI, KYLAS VEEDU, THENGAMOM MURI, PALLICKAL VILLAGE.

R2 TO R4 BY ADV. SRI.V.M.ABHILASH
SRI.RENJITH.R.NAIR
PUBLIC PROSECUTOR SRI. P.RAVINDRA BABU

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 26/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.KOSHY, J.

Criminal M.C.No.5030 OF 2003 (C)

Dated this the 26th day of July, 2007

O R D E R

This case is filed for quashing the order passed by the Additional District Judge in Crl.R.P.No.31/1998 by which order petitioner was directed to pay maintenance to the wife at the rate of Rs.450/- per month and Rs.400/- each to respondents 2 and 3 who are admittedly children of the petitioner herein. Petitioner was employed in the Irrigation Department. He is a Government employee. At the time of filing the petition children were only 8 years and 4 years. Now 10 years have passed and now education became costly and salary of the Government employees are also increased periodically. This Criminal M.C. was admitted on 2003. On that day the following order was passed:

> "The execution of the order passed in M.C.No.56/1997 will stand stayed for six months on condition that the petitioner pays or deposits in the court below for payment to the respondents one half

> of the entire amount as on this date within a period of two months and continues to pay future maintenance of Rs.250/- to the wife (2nd respondent) and Rs.200/- to the two children."

In other wards, ½ of the amount awarded was directed to be paid to the respondents. Even though it was stated that by Ext.D2 Sale deed he has given four cents of property to the 1st respondent, there was no evidence to show that that property is yielding any income. Even though it is stated that respondent was employed in a School it has come out in evidence that she was employed as a sales girl in a Bakery. Merely to maintain the children and herself employment in a Bakery is not a ground for denying the maintenance considering the income and salary of the petitioner by 2003 and increase of money value and increase in education expenses of children. However in the facts and circumstances of the case, I am of the opinion that 50% of the amount awarded shall stand confirmed for the period up to 3.6.2003 if the interim orders are complied with and from the date of the order of the revision application, that is 3.6.2003, the amount should be paid at the rate as ordered by the court below and

arrears of the same as on today from 3.6.2003 should be deposited or paid to respondents within two months from today. If the interim order was not complied with, impugned order shall stand confirmed without any modification. This Criminal M.C. is disposed of accordingly. This order will not prevent the respondents from filing fresh petition for increase in the maintenance amount on present circumstances.

J.B.KOSHY, JUDGE

prp

J.B.KOSHY

Criminal.Appeal. OF 1998

JUDGMENT

14th March, 2007